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**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

SYLVIA AHN,
Individually and as Successor-in-
Interest to the Estate of
Choung Woong Ahn,

Plaintiff,

v.

GEO GROUP, INC.; and UNITED
STATES IMMIGRATION AND
CUSTOMS ENFORCEMENT,

Defendants.

Case No. 1:22-cv-00586

**MOTION FOR LEAVE TO FILE
SECOND AMENDED
COMPLAINT**

MOTION FOR LEAVE TO FILE SECOND AMENDED COMPLAINT

1 Pursuant to Federal Rule of Civil Procedure 15(a)(2), Plaintiff Sylvia Ahn, on
2 behalf of the Estate of Choung Woong Ahn, requests leave to file her Second
3 Amended Complaint (**Exhibit A**). In support of her motion, Plaintiff states as
4 follows:

5 1. On May 17, 2022, Plaintiff filed her complaint in this matter, naming as
6 Defendants GEO Group and U.S. Immigration & Customs Enforcement
7 (“ICE”). ECF 1.

8 2. Also on May 17, 2022, Plaintiff separately submitted an administrative
9 claim to Defendant ICE under the Federal Tort Claims Act (“FTCA”)
10 (**Exhibit B**). The administrative claim alleged that Defendant ICE falsely
11 imprisoned Choung Woong Ahn, inflicted on him intentional emotional
12 distress, and caused his death through its negligence.

13 3. On June 6, 2022, Defendant GEO Group filed a motion to dismiss.

14 4. On June 23, 2022, Plaintiff filed her First Amended Complaint. The
15 Amended Complaint clarified certain claims against Defendant GEO Group,
16 but did not otherwise change or add allegations or claims against either
17 Defendant.

18 5. On October 11, 2022, ICE denied Plaintiff’s administrative claim under the
19 FTCA (**Exhibit C**). *See* 28 U.S.C. § 2675(a) (an agency has six months to
20 act on an FTCA claim).

21 6. A plaintiff cannot file FTCA claims in Federal Court until a denial of their
22 FTCA claims or inaction by the agency for six months.

23 7. In the proposed Second Amended Complaint (**Exhibit A**), Plaintiff seeks to
24 amend her complaint in order to add as Counts 9–14 the state tort claims that
25 Defendant ICE denied administratively.

26 8. Fed. R. Civ. P. 15(a)(2) provides “the court should freely give leave [to
27 amend] when justice so requires.” *See also Foman v. Davis*, 371 U.S. 178,
28 182 (1962) (“Rule 15(a) declares that leave to amend ‘shall be freely given
29 when justice so requires’; this mandate is to be heeded.”).

30 9. Here, no party will be unduly prejudiced by the granting of this Motion.

31 10. As to Defendant GEO Group, the proposed Second Amended Complaint
32 pleads no new claims against it, and its position remains unchanged.

33 11. Defendant ICE also will not be unduly prejudiced. For one, Defendant ICE
34 was already a party to this lawsuit. For another, the state tort claims arise out
35 of the same events that the original and First Amended Complaints describe.
36 Third, Defendant ICE has also been on notice of these claims since May 17,
37 2022, when Plaintiff filed her original Complaint and also presented those
38 claims to the agency through administrative process.

12. Defendant, the United States of America, is a new Defendant but could not have been a proper Defendant prior to the exhaustion of the FTCA administrative process.

13. Leave to amend in order to allow Plaintiff to add the state tort claims included in the proposed Second Amended Complaint is necessary for Plaintiff to secure relief for serious harm.

14. Courts routinely allow plaintiffs to amend their existing complaint to add Federal Tort Claims Act claims after the agency has denied them. *See e.g. Valadez-Lopez v. Chertoff*, 565 F.3d 851, 856 (9th Cir. 2011). Requiring Plaintiff to file a separate action, which would then be later consolidated with this existing action, would be inefficient.

15. This motion is made in good faith and not for purposes of delay.

WHEREFORE, Plaintiff respectfully prays this Court enter an Order granting Plaintiff leave to file her Second Amended Complaint as attached hereto, and for such other and further relief as this Court deems proper under the circumstances.

Dated: March 17, 2023

Submitted by Sylvia Ahn
on behalf of the Estate of Choung Woong Ahn

60 By her Counsel,

61
62 /s/ Sophie Angelis

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64 Oren Nissim Nimni *admitted pro hac vice*

65 Amaris Montes *admitted pro hac vice*

66 Sophie Angelis (SBN 341668)

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93 *Counsel for Plaintiff Sylvia Ahn*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was filed on March 17, 2023 and all registered users were served by that method. The undersigned also certifies that Plaintiff has caused a copy of the Second Amended Complaint to be served by process server on all Defendants.

/s/ Sophie Angelis
Sophie Angelis